

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resources, Fish and Wildlife to which was  
3 referred House Bill No. 233 entitled “An act relating to protecting working  
4 forests and habitat” respectfully reports that it has considered the same and  
5 recommends that the bill be amended by striking out all after the enacting  
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 10 V.S.A. § 6001 is amended to read:

8 § 6001. DEFINITIONS

9 In this chapter:

10 \* \* \*

11 (3)(A) “Development” means each of the following:

12 \* \* \*

13 (D) The word “development” does not include:

14 (i) The construction of improvements for farming, logging, or  
15 forestry purposes below the elevation of 2,500 feet.

16 \* \* \*

17 (12) “Necessary wildlife habitat” means concentrated habitat which is  
18 identifiable and is demonstrated as being decisive to the survival of a species  
19 of wildlife at any period in its life including breeding and migratory periods.

20 \* \* \*

1           (38) “Forest block” means a contiguous area of forest in any stage of  
2           succession and not currently developed for nonforest use that is mapped as an  
3           interior forest block within the 2016 interior forest block dataset created as part  
4           of resource mapping under section 127 of this title, as that dataset may be  
5           updated pursuant to procedures developed in accordance with that section. A  
6           forest block may include ~~existing~~ recreational trails, wetlands, or other natural  
7           features that do not themselves possess tree cover, and improvements  
8           constructed for farming, logging, or forestry purposes.

9           (39) “Fragmentation” means the division or conversion of a forest block  
10           or habitat ~~connectivity area connector~~ by the separation of a parcel into two  
11           or more parcels; the construction, ~~reconstruction,~~ conversion, ~~structural~~  
12           ~~alteration,~~ relocation, or enlargement of any building or other structure, or of  
13           any mining, excavation, or landfill; and any change in the use of any building  
14           or other structure, or land, or extension of use of land. However,  
15           fragmentation does not include the division or conversion of a forest block or  
16           habitat ~~connectivity area connector~~ by an existing ~~or~~ repaired, ~~relocated,~~ or  
17           ~~extended~~ recreational trail **or a new recreational trail** or by improvements  
18           constructed for farming, logging, or forestry purposes below the elevation of  
19           2,500 feet.

20           (40) “Habitat” means the physical and biological environment in which  
21           a particular species of plant or animal lives.



1 (i) the economic, social, cultural, recreational, or other benefit to  
2 the public from the development or subdivision will not outweigh the  
3 economic, environmental, or recreational loss to the public from the  
4 destruction or imperilment of the habitat or species; ~~or~~

5 (ii) all feasible and reasonable means of preventing or lessening  
6 the destruction, diminution, or imperilment of the habitat or species have not  
7 been or will not continue to be applied; or

8 (iii) a reasonably acceptable alternative site is owned or  
9 controlled by the applicant which would allow the development or subdivision  
10 to fulfill its intended purpose.

11 (B) Forest blocks.

12 (i) A permit will not be granted for a development or subdivision  
13 ~~to be located on or adjacent to a tract that contains a forest block~~ unless  
14 the applicant demonstrates that:

15 (I) the development or subdivision will avoid fragmentation of  
16 ~~the a~~ forest block through the design of the project or the location of project  
17 improvements, or both;

18 (II) it is not feasible to avoid fragmentation of the forest block  
19 and the design of the development or subdivision minimizes fragmentation of  
20 the forest block; or

1                    (III) it is not feasible to avoid or minimize fragmentation of the  
2                    forest block and the applicant will mitigate the fragmentation in accordance  
3                    with section 6094 of this title.

4                    (ii) Methods for avoiding or minimizing the fragmentation of a  
5                    forest block may include:

6                    (I) Locating buildings and other improvements ~~to~~ **and**  
7                    **operating the project in a manner that** avoids or minimizes incursion into  
8                    **and disturbance of** the forest block, including clustering of buildings and  
9                    associated improvements.

10                    (II) Designing roads, driveways, and utilities to avoid or  
11                    minimize fragmentation of the forest block. Such design may be accomplished  
12                    by following or sharing existing features on the land such as roads, tree lines,  
13                    stonewalls, and fence lines.

14                    (C) Habitat ~~connectivity areas~~ **connectors**.

15                    (i) A permit will not be granted for a development or subdivision  
16                    **to be located on or adjacent to a tract that contains a habitat connectivity**  
17                    **area** unless the applicant demonstrates that:

18                    (I) the development or subdivision will avoid fragmentation of  
19                    **the a habitat connectivity area connector** through the design of the project or  
20                    the location of project improvements, or both;

1                    (II) it is not feasible to avoid fragmentation of the habitat  
2                    **connectivity area connector** and the design of the development or subdivision  
3                    minimizes fragmentation of the **area connector**; or

4                    (III) it is not feasible to avoid or minimize fragmentation of the  
5                    habitat **connectivity area connector** and the applicant will mitigate the  
6                    fragmentation in accordance with section 6094 of this title.

7                    (ii) Methods for avoiding or minimizing the fragmentation of a  
8                    habitat **connectivity area connector** may include:

9                    (I) locating buildings and other improvements at the farthest  
10                  feasible location from the center of the **area connector**;

11                  (II) designing the location of buildings and other improvements  
12                  to leave the greatest contiguous portion of the area undisturbed, in order to  
13                  facilitate wildlife travel through the **area-connector**; or

14                  (III) when there is no feasible site for construction of buildings  
15                  and other improvements outside the **area connector**, designing the buildings  
16                  and improvements to facilitate the continued viability of the **area connector**  
17                  for use by wildlife.

18                  ~~(D) Availability of options; forest blocks; connectivity areas.~~

19                  ~~Under subdivisions (B) and (C) of this subdivision (8):~~



1 minimize fragmentation of the block or **area connector** in accordance with the  
2 respective requirements of subdivision 6086(a)(8)(B) or (C) of this title. A  
3 District Commission may approve the proposal only if it finds that the proposal  
4 will meet the requirements of the rules adopted under this section and will  
5 preserve a forest block or habitat ~~connectivity~~ **area connector** of a value equal  
6 to or greater than the block or **area connector** affected by the development or  
7 subdivision.

8 (b) The Natural Resources Board, in consultation with the Secretary of  
9 Natural Resources, shall adopt rules governing mitigation under this section.

10 (1) The rules shall state the acreage ratio of forest block or habitat  
11 ~~connectivity~~ **area connector** to be preserved in relation to the block or **area**  
12 **connector** affected by the development or subdivision.

13 (2) Compensation measures to be allowed under the rules shall be based  
14 on the ratio of land developed pursuant to subdivision (1) of this subsection  
15 and shall include:

16 (A) Preservation of a forest block or habitat ~~connectivity~~ **area**  
17 **connector** of similar quality and character to the block or **area connector** that  
18 the development or subdivision will affect.

19 (B) Deposit of an offsite mitigation fee into the Vermont Housing  
20 and Conservation Trust Fund under section 312 of this title, ~~at the fee rate set~~  
21 **forth in the rules.**

1                    **(i) This mitigation fee shall be derived as follows:**

2                    **(I) Determine the number of acres of forest block or habitat**  
3 **connector, or both, affected by the proposed development or subdivision.**

4                    **(II) Multiply this number of affected acres by the ratio set**  
5 **forth in the rules.**

6                    **(III) Multiply the resulting product by a “price-per-acre”**  
7 **value, which shall be based on the amount that Commissioner of Forests,**  
8 **Parks and Recreation to be the recent, per-acre cost to acquire**  
9 **conservation easements for forest blocks and habitat connectors of similar**  
10 **quality and character in the same geographic region as the proposed**  
11 **development or subdivision.**

12                    **(ii) The Vermont Housing Conservation Board shall use such a fee**  
13 **to preserve a forest block or habitat ~~connectivity area~~ connector of a value**  
14 **equal to or greater than the value of the block or ~~area~~ connector affected by**  
15 **the development or subdivision.**

16                    **(C) Such other compensation measures as the rules may authorize.**

17                    **(3) The rules shall identify options and establish methods under**  
18 **which the mitigation of impact on a forest block or a habitat connector, or**  
19 **both, may be structured to also mitigate impacts to land or resources**  
20 **within the block or connector, such as necessary wildlife habitat and**  
21 **threatened or endangered species.**

1        (c) All forest blocks and habitat ~~connectivity areas~~ connectors preserved  
2        pursuant to this section shall be protected by permanent conservation  
3        easements that grant development rights and include conservation restrictions  
4        and are conveyed to a qualified holder, as defined in section 821 of this title,  
5        with the ability to monitor and enforce easements in perpetuity.

6        Sec. 5. RULE ADOPTION: SCHEDULE; GUIDANCE

7        (a) Rulemaking.

8        (1) On or before September 1, 2017, the Natural Resources Board  
9        (NRB) shall file proposed rules with the Secretary of State to implement Sec. 4  
10       of this act, 10 V.S.A. § 6094.

11       (2) On or before March 1, 2018, the NRB shall finally adopt rules to  
12       implement Sec. 4 of this act, 10 V.S.A. § 6094, unless such deadline is  
13       extended by the Legislative Committee on Administrative Rules pursuant to  
14       3 V.S.A. § 843(c).

15       (b) Guidance.

16       (1) On or before May 1, 2018, the NRB shall develop guidance for the  
17       District Commissions, applicants, and other affected persons with respect to:

18       (A) the forest block and habitat ~~connectivity area~~ connector criteria  
19       adopted under Sec. 2 of this act, 10 V.S.A. § 6086(a)(8)(B) and (C); and

20       (B) designing recreational trails, subdivisions, and developments to  
21       minimize impacts in a manner that complies with those criteria.

1           (2) The NRB shall develop this guidance in collaboration with the  
2           Agency of Natural Resources (ANR). As part of developing this guidance, the  
3           NRB shall solicit input from affected parties and the public, including  
4           planners, developers, municipalities, environmental advocacy organizations,  
5           regional planning commissions, regional development corporations, and  
6           business advocacy organizations such as State and regional chambers of  
7           commerce.

8           Sec. 6. 10 V.S.A. § 127 is amended to read:

9           § 127. RESOURCE MAPPING

10           (a) ~~On or before January 15, 2013, the~~ The Secretary of Natural Resources  
11           (the Secretary) shall complete and maintain resource mapping based on the  
12           Geographic Information System (GIS). The mapping shall identify natural  
13           resources throughout the State, including forest blocks, that may be relevant to  
14           the consideration of energy projects and projects subject to chapter 151 of this  
15           title. The Center for Geographic Information shall be available to provide  
16           assistance to the Secretary in carrying out the GIS-based resource mapping.

17           (b) The Secretary ~~of Natural Resources~~ shall consider the GIS-based  
18           resource maps developed under subsection (a) of this section when providing  
19           evidence and recommendations to the Public Service Board under 30 V.S.A.  
20           § 248(b)(5) and when commenting on or providing recommendations under  
21           chapter 151 of this title to District Commissions on other projects.



1 migration, and dispersal of animals and plants and the functioning of  
2 ecological processes. A habitat connector may include recreational trails and  
3 uses exempt from regulation under subsection 4413(d) of this title. In a plan or  
4 other document issued pursuant to this chapter, a municipality or regional plan  
5 commission may use the phrase “wildlife corridor” in lieu of “habitat  
6 connector.”

7 ~~(37)~~(35) “Recreational As used in subdivision (34) of this section,  
8 “recreational trail” means a corridor that is not paved and that is used for  
9 hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain  
10 vehicle riding, horseback riding, and other similar recreational activity.

11 Sec. 8. EFFECTIVE DATES

12 (a) This section and Sec. 5 shall take effect on passage.

13 (b) Sec. 6 shall take effect on July 1, 2017.

14 (c) Sec. 7 shall take effect on January 1, 2018 and shall supersede 2016  
15 Acts and Resolves No. 171, Sec. 15. Sec. 7 shall apply to municipal and  
16 regional plans adopted or amended on or after January 1, 2018.

17 (d) Secs. 1 through 4 shall take effect on May 1, 2018, except that on  
18 passage, Secs. 1 through 4 shall apply to the rulemaking and guidance under  
19 Sec. 5.

20  
21

1 (Committee vote: \_\_\_\_\_)

2

\_\_\_\_\_

3

Representative \_\_\_\_\_

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FOR THE COMMITTEE